REMARKS/ARGUMENTS

Claims 1-30, 40-45, and 52-54 are pending in the application. Claims 1-12, 15-18, 20, 21, 23, 24, 27, 28, 30, 40-45, and 52-54 are rejected under 35 U.S.C. §103(a), as being unpatentable over Gillespie (U.S. Pat. Pub. 2001/0034626), in view of Webber, Jr. (U.S. Patent No. 6,167,378). Further, claims 13, 14, 22, 25, and 26 are rejected under 35 U.S.C. §103(a), as being unpatentable over Gillespie, in view of Webber, Jr., and in further view of Lidow (U.S. Pat. Pub. 2002/0184084). Claims 19-29 are rejected under 35 U.S.C. §103(a), as being unpatentable over Gillespie, in view of Webber, Jr., and in further view of Ben-meir, et al. (U.S. Pat. Pub. 2003/0014326). Applicant respectfully traverses each of the above rejections.

Attached herewith is a Rule 1.131 Affidavit – showing prior invention – submitted by the inventor. The Affidavit supports an invention date that precedes the effective filing date of the Gillespie reference, which is the primary reference serving as basis for each of the above §103 rejections. The Affidavit specifically establishes that the invention was conceived before the effective filing date of the prior art reference or February 16, 2000, and as early as January 26, 2000. Conception on that date is supported by the inventor's documentation, communications of the invention to attorneys, and evidence of a working embodiment. The Affidavit also establishes that the inventor worked diligently at least from January 26, 2000 to April 4, 2000, when a provisional application was filed on the invention. During this period of less than 9 to 10 weeks, the inventor worked diligently to further document his invention, investigate the prior art, and assist in preparation of a patent application, all before planned commercialization of software products embodying the invention.

Accordingly, this Affidavit removes the Gillespie reference as prior art and renders each of the pending §103 rejections ineffective. Applicant respectfully requests the Examiner to withdraw each of the pending rejections, and allow the application to issue.

In the event that the inventor's Rule 1.131 Affidavit is not accepted, Applicant maintains the patentability of the pending claims over the cited references. Specifically, applicant submits that the invention claimed is not obvious in view of the cited references.

The U.S.P.T.O. has the initial burden of presenting a *prima facie* case of obviousness. M.P.E.P. § 2142-43; see also *In re Peeks*, 612 F.2d 1287 (CCPA 1980). This requires the Examiner to meet three basic criteria. If any one of these is not met, a *prima facie* case has not been presented and any rejection based on 35 U.S.C. § 103(a) is improper. In the present case, one or more of these three basic criteria has not been met and thus, the standing rejections under 35 U.S.C. § 103(a) are improper.

First, it must be established that each of the claim limitations is taught or suggested by the prior art. *In Re Roy,* 490 F.2d 981 (C.C.P.A. 1974). Each of the claims pending in the present application contains, however, one or more elements that are not taught or suggested by the Gillespie reference, individually or in combination with Webber, Jr. and/or Lidow. Generally, none of the above-mentioned cited references is directed to managing an existing purchasing contract or historical ticketing transactions. It follows, then, that the references do not teach or suggest steps that apply to a ticket purchasing contract or historical ticketing transactions as required by claim 1, for example.

As an initial matter, neither Gillespie nor the other two cited references teach or suggest a "method of managing purchasing contracts between supplier entities for a common carrier and customer entities for the purchase of ticket products" (emphasis added). Gillespie is directed to a method of evaluating airline preferred pricing programs. At best, Gillespie describes as output of one module, a prospective market share value that can serve "as basis for a pricing agreement" and "an indexed multiplier" to the market share value to allow for some deviation (e.g. +/- 10%). The provision of "a basis" for a pricing agreement falls short of establishing and managing an existing pricing agreement or a ticket purchasing contract. In view of this distinction, neither Gillespie nor the other references teach or suggest steps in managing ticket purchasing transactions, such as those steps required by claim 1.

Gillespie fails to teach or suggest a step of generating a ticketing purchasing contract between a supplier entity and a customer entity. Because the claimed invention involves the

management of a purchasing contract, this generating step is a necessary initial step in the inventive method. Gillespie provides a method of testing and evaluating prospective preferred pricing programs by the airlines, but this does not involve or lead to generating any kind of purchasing contract, or more specifically, a purchasing contract that is applicable to a plurality of contracted purchasing transactions that effect the purchase, by the customer entity, of a ticket on a common carrier for travel (as recited by claim 1). As discussed above, providing a "basis for a pricing agreement" is not the same as providing or generating a purchasing contract of the type recited in claim 1.

In the alternative, Gillespie does not teach or suggest a step of *identifying*, among a population of stored ticketing transaction data sets, sets of transaction ticketing data *as relating to* a ticketing transaction under the purchasing contract. The Gillespie disclosure discusses analyzing airline flight schedule and purchase information in relation to one or more predefined city pairs for a customer. Arguably, this involves identifying prospective ticket purchases and cost information. This analysis does not, however, involve historical ticketing transaction data sets nor a defined ticket purchasing contract. Flight schedule and cost information do not equate to nor embody the challenges presented by historical ticketing transaction data sets. Gillespie also discusses projected airline data derived from historical travel data over a predefined period, but this travel data is not identified with or as relating to any purchasing contract.

Gillespie also does not teach or suggest the identifying step of "comparing the stored ticketing transaction data with term attributes of a contract term." Again, Gillespie discusses projected airline travel data that provide expected airline travel purchases, but no comparison is made between this travel data with the term attributes (*e.g.*, term performance criteria, discount, etc.) of a contract term. Among other reasons, no comparison can be made because there are no stored term attributes of a contract term or a purchasing contract to compare travel data with.

Applicant directs further attention to claims 3, 18, and claims depending therefrom which elaborates on the identifying step. In analyzing airline travel data or airline schedules, Gillespie does not perform additional steps on the data or schedule. For example, Gillespie does not refer

to selection or comparison of certain transaction data (in identified historical ticketing transactions). In respect to claim 18, Gillespie does not teach or suggest "electronically marking each identified transaction data set with a unique contract term code..."

Gillespie also does not teach or suggest the subsequent step of *generating* a collection of contract transaction data sets *by associating* a transaction data set of each identified contract transaction with each term data set of a contract with which the transaction is identified. The Gillespie disclosure discusses projected airline travel data that provide expected airline travel purchases, but this travel data is not generated by acting upon (*i.e.*, associating in a certain manner) a transaction data set of previously identified contract transactions. Further, this airline travel data is not a collection of transaction data sets that is generated. At best, Gillespie takes historical travel data and perhaps, stores the same data; but it does not generate new travel data or in the case of the present invention, a new collection of transaction data sets. Specifically, Gillespie does not teach or suggest generating a collection of data sets *by associating a transaction data set of each identified contract transaction with each term data set of a contract with which the transaction is identified.*

Applicant directs further attention to claims 8 and 9, for example, wherein the claims elaborate on the step of generating a collection of transaction data sets. In analyzing airline travel data or airline flight schedule, Gillespie does not teach or suggest further acting upon the identified data (*i.e.*, more than replicating or storing information) to generate this new collection of data. For example, the claims recite additional steps such as identifying specific data or deriving individualized transactions therefrom.

In respect to Webber, Jr., Applicant notes that the disclosure deals with one sales order in a vertical supply chain relationship and not a ticket purchasing contract that covers a plurality of ticketing transactions. As stated in the previous Response, it is true that the described method or system may deal with a plurality of contracts; however, the steps described in the process refer to a single purchasing order or transaction. Certain steps in the inventive method refer to a plurality of ticketing transactions under a given ticket purchasing contract between a customer and a

supplier. A basic difference exists in that the claimed invention involves the inter-relation between a defined ticket purchasing contract (between a supplier entity and a customer entity) and ticket purchasing transactions under the contract, whereas Webber, Jr. involves a single or a plurality of purchasing orders or transactions only.

Accordingly, the Webber, Jr. reference cannot teach or suggest, for example, the following steps which are recited in claim 1: (i) "defining a plurality of contract terms for a ticket purchasing contract, wherein a contract term defines a purchasing obligation of the customer"; and (ii) storing a term data set of the term attributes (term attributes data set) associated with a contract term in a computer database". Webber, Jr. discusses contract terms and condition applicable to the vertical chain of suppliers and sellers. The "contract term" does not define a purchasing obligation of the customer entity, as recited in claim 1. A survey of Webber, Jr. suggests that these "terms" refer to activities or responsibilities required of the different parties in the vertical chain to satisfy a purchase order.

Also, Webber, Jr. discusses a database of contracts that is "conventionally indexed or otherwise formatted at one or more levels to optimize search and retrieval..." The step in claim 1 requires, however, the storing of *a term data set* of term attributes of a term in a contract, <u>not</u> the storing of *contracts*. In fact, the step in claim 1 is applied in respect to a contract term of a ticket purchasing contract that is generated in a preceding step (and not a collection of sales contracts).

Accordingly, Webber, Jr. does not cure the deficiencies of the Gillespie. The combination of these two references still fails to teach or suggest, among other elements, the following elements of claim 1, for example:

(a) a method of managing a ticket purchasing contract

(b) generating a ticket purchasing contract;

(c) defining a plurality of contract terms for the purchasing contract, each contract term being defined by a plurality of term attributes; or

(d) storing a term data set of the term attributes (term attributes data set) associated with a contract term in a computer database;

(e) identifying...stored sets of transaction data...by comparing the transaction data with the term attributes...; and

(f) generating a collection of contract transaction data sets by associating the transaction data set of each identified contract transaction with each term data set of a contract term with which the transaction is identified.

Accordingly, the combination of the Gillespie and the Lidow reference does not provide a proper basis for a rejection under 35 U.S.C. §103(a).

Because Gillespie does not teach or suggest a method of managing ticket purchasing contracts, the challenges addressed by the Gillespie method are different from those addressed by the inventive method. Of particular importance is the fact that the Gillespie method is practiced by and for the benefit of a single corporation, whereas the inventive method is practiced by, and primarily for, the benefit of a single airline or multiple airlines in a shared contract relationship. The subject matter of these references simply do not relate to management of ticket purchasing contracts, and thus, are not suitable to address the management challenges presented to airlines by purchasing contracts. Webber, Jr., on the other hand, is directed to steps performed by parties in seller/supply chain relationships and single purchasing orders each of which represents a contract between the parties in this supply chain relationship. These steps have no applicability to a ticket purchasing contract between a supplier entity and a customer entity, which deals with a plurality of ticketing transactions under that contract. Accordingly, one faced with addressing the problems of an airline(s) in managing contracts, would not look to or expect to gain insight from the teachings of Gillespie or Webber, Jr.

In further view of the above, no motivation can be found in either the Gillespie or Webber, Jr. reference to combine the teachings of the two disclosures. Webber, Jr. teaches steps in a supply chain or back office relationship, which have no applicability or usefulness in evaluating airline preferred pricing programs. A combination of prior art teachings cannot be shown to establish obviousness absent some teaching, incentive, or suggestion in these references. *ACS Hospital Systems, Inc. v. Montefiore Hospital*, 732 F.2d 1572, 1577 (Fed. Cir. 1984); *In Re Fine,* 837 F.2d 1071 (C.A.F.C. 1988; M.P.E.P. § 2142-43.

The remaining claims pending in the application have one or more of the limitations discussed above, which are not taught or suggested by the cited references. For one or more of the reasons discussed above, the combination of Gillespie and Webber, Jr. and/or Lidow does not provide a proper basis for the standing rejections under 35 U.S.C. §103(a).

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

The Commission is hereby authorized to charge any additional fees or credit any overpayments to the deposit account of Paula D. Morris & Associates, P.C., Account No. **50-0997** under Order No. PRISM-P01956US1.

The Applicant and the undersigned request the opportunity to present and elaborate on the above arguments in an Interview with the Examiner. Applicant believes that such an Interview will facilitate examination of the application and resolve any outstanding issues. In any event, the undersigned is available for consultation at any time, if the Examiner believes such consultation may expedite the resolution of any issues.

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Respectfully submitted,

By _____

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